[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[NRC-2022-0054]

Guidance for the Application of Radiological Sabotage Design-Basis Threat in the Design, Development, and Implementation of a Physical Security Program that Meets 10 CFR 73.55 Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Regulatory guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 5.69, "Guidance for the Application of Radiological Sabotage Design-Basis Threat in the Design, Development, and Implementation of a Physical Security Program that Meets 10 CFR 73.55 Requirements," as a final RG. RG 5.69 provides a method that the NRC staff finds acceptable for an applicant or licensee to use in applying the design-basis threats (DBTs) in the development of a physical security program that meets the requirements of NRC regulations. Through interactions with stakeholders during physical security inspections, including security baseline inspections, force-on-force exercises, and enforcement activities, the NRC identified areas where a need for additional clarity and/or sufficient technical information is warranted. Revision 1 to RG 5.69 addresses these areas. In addition, revisions to this guidance include changes to the DBT adversary characteristics necessary to align with changes to NRC security requirements made since the publication of Revision 0 to RG 5.69 in 2007.

DATES: Revision 1 to RG 5.69 is available on **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Please refer to Docket ID **NRC-2022-0054** when contacting the NRC about the availability of information regarding this document. Revision 1 to RG 5.69 contains Safeguards Information (SGI). Therefore, this RG is being withheld from public

disclosure, but is available to those affected licensees and cleared stakeholders who qualify for access and have a demonstrated need-to-know. For access to Revision 1 to RG 5.69, contact the individuals listed in the "For Further Information Contact" section.

FOR FURTHER INFORMATION CONTACT: Niry Simonian, Office of Nuclear Security and Insident Response, telephone: 301-287-3636, email: Niry.Simonian@nrc.gov or Mekonen Bayssie, Office of Nuclear Regulatory Research, telephone: 301-415-1699, email: Mekonen.Bayssie@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Please do not include any potentially classified or sensitive information in your email.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing a revision to an existing RG in the NRC's "Regulatory Guide" series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the NRC staff uses in evaluating specific issues or postulated events, and data that the NRC staff needs in its review of applications for permits and licenses.

Revision 1 to RG 5.69 incorporates methods to apply requirements of updated regulations and lessons-learned from regulatory oversight, including operating experience, inspection findings, enforcement actions, Security Frequently Asked Questions, and other regulatory documents (e.g., generic communications). This RG clarifies DBT advesary characteristics and capabilities identified through interactions with stakeholders and inspection activities since the original publication of the guide.

II. Additional Information

Revision 1 to RG 5.69 contains SGI. Accordingly, this RG is being withheld from public disclosure. It will be made available to those affected licensees and cleared stakeholders who have an established need-to-know for access to the RG. The NRC did not announce the availaibility of the draft RG for public comment because the guide

contains SGI and Official Use Only—Security-Related Information. Nonetheless, the NRC is issuing this notice to inform the public of the issuance of the final RG.

On December 23, 2015, the NRC issued an email (Agencywide Documents Access and Management System (ADAMS) Accession No. ML16007A567) transmitting the draft RG for comment to cleared stakeholders who demonstrated a need-to-know for access to the document. The stakeholder's comment period closed on March 7, 2016. The NRC received several comments from stakeholders. The comments and the associated comment resolution contain SGI and are not available to the public. In addition, per Staff Requirements Memorandum (SRM) – SECY-18-0110, "Proposed Revision to Regulatory Guide 5.69, "Guidance for the Application of the Radiological Sabotage Design-Basis Threat for Nuclear Power Reactors,"" dated November 18, 2021 (Non-Publicly Available), staff completed the Commission's approved edits to the document as appropriate.

For access to RG 5.69, Revision 1 , contact the individuals listed in the "For Further Information Contact section."

III. Congressional Review Act

This RG is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Backfitting, Forward Fitting, and Issue Finality

This RG provides updated guidance on the methods acceptable to the NRC staff for complying with the NRC's regulations associated with the design-basis threat for nuclear power reactors. The RG applies to current licensees and future applicants for, and holders of:

- operating licenses for nuclear power reactors under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR); and combined licenses for nuclear power reactors under 10 CFR part 52;
- operating licenses for nuclear power reactors that are required to protect

safeguards information regulated by the Commission by Order EA-03-086, “Order Requiring Compliance with Revised Design Basis Threat for Operating Power Reactors,” dated April 29, 2003; and

- operating licenses for nuclear power reactors that are required to protect safeguards information regulated by the Commission by Order EA-06-037, “Order Requiring Compliance with Updated Adversary Characteristic,” dated March 20, 2006.

Issuance of this RG does not constitute backfitting as defined in 10 CFR 50.109, “Backfitting,” and as described in NRC Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests;” constitute forward fitting as that term is defined and described in MD 8.4; or affect the issue finality of any approval issued under 10 CFR Part 52, “Licenses, certifications, and approvals for nuclear power plants.” As explained in the RG, licensees are not required to comply with the positions set forth in this RG, and the NRC staff does not intend to use the guidance in this RG to support NRC staff actions in a manner that would constitute backfitting or forward fitting or affect the issue finality of any approval issued under 10 CFR part 52. If, in the future, the NRC seeks to impose a position in this RG in a manner that constitutes backfitting or forward fitting or affects the issue finality for a 10 CFR part 52 approval, then the NRC will address the backfitting provision in 10 CFR 50.109, the forward fitting provision of MD 8.4, or the applicable issue finality provision in 10 CFR part 52, respectively.

Dated: February 25, 2022.

For the Nuclear Regulatory Commission.

Meraj Rahimi, Chief,
Regulatory Guide and Programs
Management Branch,
Division of Engineering,
Office of Nuclear Regulatory Research.

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